IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

CRL.REF. No. 2 of 2006(A)

SC.118/2003 of DISTRICT & SESSIONS COURT, PATHANAMTHITTA
CP.135/2001 of J.M.F.C., ADOOR
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PETITIONER

REPORT FROM THE DISTRICT AND SESSIONS JUDGE, PATHANAMTHITTA.

BY ADV. ADV.G.G.MANOJ (STATE BRIEF)

RESPONDENTS:

STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. PUZHAKKARA MUHAMMED, PUBLIC PROSECUTOR

THIS CRIMINAL REFERENCE HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J

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Crl. Ref. NO. 2 OF 2006

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Dated this the 30th day of January 2007

O R D E R

The matter arises out of the reference made by the District and Sessions Judge, Pathanamthitta. It was reported by the Sessions Judge that SC. 118/2003/Crime No. 587/99 of Adoor police station, involving 2 accused one Mr. Vijayan and Mr. Shyju, was committed to the Sessions Court as per order in C.P. 135/01 dated 29.08.2002. The case was taken on file and the same was made over to Assistant Sessions Judge, Pathanamthitta for trial and disposal. The same was again transferred to Additional Sessions Court (Adhoc) Fast Track No. III, Pathanamthitta. The above court, on verification of the records, from the admission register issued by the Principal of G.B.H.S., Adoor wherein Shyju was a student, found that he was a jevenile at the time of the commission of the offence. It is mentioned that the date of birth of the 2nd accused/Shyju was on 30.09.1999. As per Section 2(K) of the Jevenile Justice (Care & Protection of Children) Act, 2000 jevenile is a person who has not completed 18th year of age. It was in the above circumstances that the matter happened to be reported to the High Court; and the same was posted on the judicial side.

2. State Brief was appointed in the matter and the counsel was heard

3. I find that committal of the case of the 2nd accused/Shyju is irregular and hence liable to be set aside. In the circumstances, the committal proceedings in C.P. 135/01 and the consequent proceedings in S.C. No. 118/2003 with respect to the 2nd accused/Shyju is herewith quashed. The matter will be placed before the concerned JFCM (Judicial First Class Magistrate, Adoor) who shall proceed with the matter as per the provisions of the Jevenile Justice Act. The Additional Sessions Court (Adhoc) Fast Track III, Pathanamthitta may continue the proceedings against the 1st accused as per law.

The Crl. Ref. is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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